

identify rural areas?”<sup>206</sup> This request for further comment underscores the complete lack of APA mandated notice and comment process here.

**b. The Tribal Rural Limitation Is Arbitrary and Capricious**

The Tribal Rural Limitation is also arbitrary and capricious and likely will be overturned on that independent ground. In the *Fourth Report and Order*, the Commission argues that the Tribal Rural Limitation it is consistent with the intent of the *2000 Tribal Order* and that including urban Tribal areas would be “inconsistent with the Commission’s primary purpose of the enhanced support.”<sup>207</sup> The Tribal Rural Limitation is arbitrary and capricious because it improperly redefines the purpose of the Tribal Lifeline program in contravention of long-standing Commission policy and is speculative, irrational, and fails to consider important aspects of the problem, including the nature and role of mobile service in the Tribal Lifeline program and the impact of its rule on Tribal subscribers.

First, the Commission in the *Fourth Report and Order* improperly reframed the Tribal Lifeline program as an infrastructure program rather than an affordability and adoption program. In the *2000 Tribal Order*, the Commission specifically stated that the “primary goal” of the enhanced Tribal benefit was to “reduce the monthly cost of telecommunications services for qualifying low-income individuals on Tribal lands, so as to encourage those without service to initiate service and better enable those currently subscribed to maintain service.”<sup>208</sup> The

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<sup>206</sup> See *2017 Lifeline Digital Divide Order* ¶ 126 (citations omitted).

<sup>207</sup> See *Fourth Report and Order* ¶ 9.

<sup>208</sup> See *2000 Tribal Order* ¶ 44.

Commission reiterated this primary purpose in the *2012 Lifeline Reform Order*.<sup>209</sup> This purpose applies irrespective of whether the subscriber lives in an urban or rural area or whether there already are facilities available where the consumer lives. Indeed, because the Lifeline program—including the enhanced Lifeline program—supports services rather than facilities, it presumes that facilities are already available to provide the services.

And yet, despite the fact that the “primary goal” of the enhanced benefit is increasing Tribal subscribership, the Commission in the *Fourth Report and Order* provided no analysis of the impact of its proposal on subscribership, including the ability of Tribal Lifeline subscribers to maintain service after the new rule goes into effect or on the affordability of service on Tribal lands. Based on the record, however, the result of the Tribal Rural Limitation is clear: voice and broadband services for Tribal residents who live in urban areas will be less affordable and less available for current and prospective subscribers, negatively affecting subscribership for low-income Tribal residents in contravention of the primary purpose of the enhanced Tribal Lifeline benefit.

Second, even if the Commission was correct that the primary goal of the enhanced Tribal Lifeline benefit was to incent increased deployment in remote and unserved areas, its adopted rule is speculative, irrational, and fails to consider the role and nature of mobile service in the Tribal Lifeline program. Indeed, the rationale is “so implausible that it could not be ascribed to a difference in view or the product of agency expertise.”<sup>210</sup> The Commission provided absolutely no record support for its conclusion that directing enhanced support solely to rural Tribal areas

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<sup>209</sup> See *2012 Lifeline Reform Order* ¶ 150.

<sup>210</sup> See *State Farm*, 463 U.S. at 43.

will create incentives for deployment, or for its conclusion that providing support for urban Tribal lands is unlikely to support deployment.

Instead, the Commission assumed that because fixed broadband service is less available on rural Tribal lands, limiting support to rural lands will somehow increase deployment, and that because fixed broadband service is more available in urban areas, providing enhanced Tribal Lifeline support to subscribers in those areas will not incent greater deployment. This assumption lacks any foundation in the record or in real-life experience. The ability of an ETC to invest in deployment on rural Tribal lands is dependent on consumer demand (e.g., network usage), the ability of consumers to pay, and the revenues an ETC has available to invest in new facilities. Here, the Commission provided no additional incentives for consumers that would increase demand or affordability<sup>211</sup> and effectively cuts off the ability for ETCs to use revenues earned from urban Tribal subscribers to support deployment for rural subscribers.<sup>212</sup>

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<sup>211</sup> In fact, the Commission will undermine competition, consumer choice, and innovation, depressing demand and affordability. *See Navajo Nation Comments* at 10; *ETC November 9 Ex Parte*, Ex. A at 2.

<sup>212</sup> The Commission has recognized the value of maximizing subscribership to drive deployment on Tribal lands, finding that:

[T]he availability of enhanced federal support for all low-income individuals living on tribal lands will maximize the number of subscribers in such a community who can afford service and, therefore, make it a more attractive community for carrier investment and deployment of telecommunications infrastructure. As the number of potential subscribers grows in tribal communities, carriers may achieve greater economies of scale and scope when deploying facilities and providing service within a particular community.

*See 2000 Tribal Lifeline Order* ¶ 30. While the Commission there was discussing the value of including non-Native Americans, the same principle applies when including both urban and rural areas on Tribal lands.

Consequently, the Commission's proposal is more likely to decrease the incentive and ability of ETCs to deploy services on rural Tribal lands.

Third, the Commission entirely failed to consider a critical aspect of the problem: the effect of its proposal on the deployment, upgrade, and use of mobile telecommunications and broadband service on Tribal lands. The majority of Lifeline subscribers on Tribal lands subscribe to mobile voice and broadband service.<sup>213</sup> And yet, the *Fourth Report and Order* only cites fixed broadband deployment data to support its Rural Limitation, entirely ignoring mobile broadband deployment or usage data.<sup>214</sup> The Commission provided no justification for its failure to include mobile broadband service in its analysis. Compounding its error, the Commission ignored the fact that, unlike fixed service, mobile service is not tied to a particular address, such that an urban resident may in fact primarily be a "rural" user, or vice versa. The Commission's failure to analyze the extent to which depriving urban Tribal residents of enhanced benefits will suppress usage of rural Tribal networks, and by extension the incentives to deploy rural networks, renders its rule arbitrary and capricious.

Fourth, the Commission similarly failed to consider the impact of its proposal on program participants and relevant submission in the record from affected Tribes.<sup>215</sup> For example, several tribes, including the Cheyenne River Sioux Tribe, Cherokee Nation, and the Susanville Indian Rancheria emphasized the impact of a rural limitation on infrastructure deployment, noting that "[l]imiting the enhanced Tribal Lifeline subsidy to sparsely populated areas on tribal lands would

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<sup>213</sup> See *Fourth Report and Order* ¶ 23 (citing *2015 Lifeline Second FNPRM* ¶ 167 n.320).

<sup>214</sup> See *id.* ¶ 9.

<sup>215</sup> See, e.g., *GCI November 2 Ex Parte* at 1.

only create another incentive for carriers to overlook the provision of these services for *all* low-income residents of tribal lands,” and that “low-income tribal members may reside in an economic hub that has advanced telecommunications services, but that does not always mean they will be able to afford such services.”<sup>216</sup> The Commission neglected to cite, consider, or respond to any of the arguments that those Tribes set forth in the record.

The Commission’s Tribal Rural Limitation is arbitrary and capricious and likely will be set aside because it improperly reframes the Tribal Lifeline program as an infrastructure-deployment program and is speculative, irrational, and fails to consider the role of mobile service in the Tribal Lifeline program.

**B. Petitioners Will Be Irreparably Harmed Absent a Stay**

Petitioners will be irreparably harmed if a stay of the *Fourth Report and Order* is not granted. The D.C. Circuit defines irreparable harm as harm that is “certain and great” and “actual, not theoretical.” As set forth in the accompanying declarations, Petitioners will suffer myriad irreparable harms if the *Fourth Report and Order* is not stayed.

**1. Wireless Reseller ETCs Will Suffer Irreparable Harm**

ETC Petitioners and many NaLA members are wireless reseller ETCs that provide services to Lifeline customers who reside on rural and urban federally recognized Tribal lands

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<sup>216</sup> See Letter from Harold C. Frazier, Chairman, Cheyenne River Sioux Tribe, to Marlene Dortch, Secretary, FCC, WC Docket Nos. 11-42, 09-197, 10-90, 3-4 (Sept. 28, 2015); Letter from Bill John Baker, Principal Chief of the Cherokee Nation, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 11-42, 09-197, 10-90, 5 (Oct. 21, 2015); Letter from Chief J. Allan, Chairman, Coeur d’Alene Tribe, to Marlene Dortch, Secretary, FCC, WC Docket Nos. 11-42, 09-197, 10-90, 3 (Sept. 30, 2015); Letter from Stacy Dixon, Tribal Chairman, Susanville Indian Rancheria, to Marlene Dortch, Secretary, FCC, WC Docket Nos. 11-42, 09-197, 10-90, 4 (Sept. 28, 2015).

and who are eligible for enhanced Tribal Lifeline Benefits. ETC Petitioners' businesses will be irreparably harmed if the Tribal Facilities Requirement and the Tribal Rural Limitation go into effect, with ETCs that primarily serve Tribal subscribers being hit the hardest.

If allowed to become effective, the *Fourth Report and Order* will cause ETCs such as Assist Wireless and Easy Wireless that primarily serve Tribal areas to enter into an irreversible death spiral that will put them out of business within a year.<sup>217</sup> Such harm is great and certain not only for these ETCs but also for the enhanced Lifeline subscribers served by them.

Most immediately, the *Fourth Report and Order* will cause Assist and Easy to lose the majority of their annual revenues if a stay is not granted.<sup>218</sup> Having lost the vast majority of their revenues, both Assist and Easy will be forced to abandon their current business models and significantly limit operations.<sup>219</sup> The financial impact of the new rule changes will force Assist and Easy to shift from active competitive marketing into "harvesting" mode—complying with Lifeline marketing requirements but not actively competing for new customers, which would be too costly and unprofitable, while abandoning expenses at a rate that soon would be eclipsed by the revenue reductions caused by the rule changes and associated customer churn.<sup>220</sup>

Under the new rules, Assist and Easy will be forced to rapidly dismantle operations, including talent, know-how and physical assets that took years and tremendous resources to build. Assist and Easy each will immediately terminate nearly all staff and agent relationships—

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<sup>217</sup> See Declaration of David Dorwart ¶ 5 (June 22, 2018) (Assist Decl.) (attached as **Exhibit A**); Declaration of Joe Fernandez ¶ 5 (June 22, 2018) (Easy Decl.) (attached as **Exhibit B**).

<sup>218</sup> See Assist Decl. ¶ 6; Easy Decl. ¶ 6.

<sup>219</sup> See Assist Decl. ¶ 7; Easy Decl. ¶ 9.

<sup>220</sup> See Assist Decl. ¶ 7; Easy Decl. ¶ 9.

including those focused on marketing, distribution (and agent relations), warehousing, and customer service—leaving each with only a “skeleton crew” for purposes of regulatory compliance and minimal customer service for existing customers.<sup>221</sup> Assist and Easy each also will be required to close all of their physical stores, which are the most essential elements of each ETC’s Tribal Lifeline operations and provide enrollment, eligibility recertification, customer support, and digital literacy training for Tribal subscribers throughout each ETC’s Oklahoma service territory.<sup>222</sup> Without physical stores, Assist’s and Easy’s customer churn rates will increase swiftly and dramatically.<sup>223</sup> Once dismantled, Assist and Easy will not be able to reassemble their enterprises and the value cost and costs associated with such dismantling cannot be recovered.

The new rules also will necessitate changes in service offerings to remaining customers that will drive churn and fuel the death spiral into which these two ETCs will enter. Without being able to offer subscribers an enhanced Tribal Lifeline benefit, Assist and Easy will be forced to offer much less attractive and less competitive service offerings. Specifically, Assist and Easy each will offer existing subscribers a choice between comparatively minimalist free-to-end-user basic Lifeline service plans (for the \$9.25 per month basic Lifeline subsidy) or the robust enhanced Lifeline service plan bundles of mobile voice, text and broadband at an increased price of \$25 per month (the price increase is necessitated by the loss of the \$25

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<sup>221</sup> See Assist Decl. ¶ 7; Easy Decl. ¶ 9.

<sup>222</sup> See Assist Decl. ¶ 8; Easy Decl. ¶ 10.

<sup>223</sup> See Assist Decl. ¶ 8; Easy Decl. ¶ 10.

monthly enhanced Lifeline subsidy).<sup>224</sup> Where a facilities-based wireless Lifeline competitor makes available an enhanced Tribal Lifeline service, Assist's and Easy's basic Lifeline service offerings will not be able to effectively compete with a facilities-based ETC's enhanced (Tribal) Lifeline service offering that relies on nearly four times the level of subsidies.

In addition to forcing Assist and Easy into an unsustainable competitive disadvantage vis-à-vis ETCs that can offer service plans that rely on the enhanced Tribal Lifeline support amount of \$34.25, the new rules will result in rapidly accelerated subscriber churn due to a combination of factors: (1) Lifeline customers do not have the means to pay \$25 per month for service; (2) Assist's and Easy's customers will be tremendously dissatisfied with the basic Lifeline service offering that does not provide them with the level of voice and broadband access they have grown to rely upon; and (3) Assist and Easy will be unable to maintain high levels of customer care and will be forced to close retail stores that have been essential to customer education and satisfaction.<sup>225</sup> With customers leaving at an accelerated rate and no new customers being added to replace those lost revenues, each ETC will be forced out of business within a year.<sup>226</sup>

Notably, each company has no viable alternative. Neither Assist nor Easy will be able to offset subscriber and revenue losses by expanding into new territories, renegotiating with underlying carriers, or obtaining new investment. The Commission has failed to act on compliance plans and federal ETC petitions that Assist and Easy filed nearly six years ago,

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<sup>224</sup> For example, an Easy customer would be forced to pay \$25 for his or her existing enhanced Lifeline plan that includes unlimited voice minutes, unlimited text and 2048 MB of data or switch to the free basic Lifeline plan that includes only 750 minutes of voice, unlimited text and only 25 MB of data. *See* Easy Wireless, "Plans," <http://www.myeasywireless.com/plans.html>.

<sup>225</sup> *See* Assist Decl. ¶ 11; Easy Decl. ¶ 13.

<sup>226</sup> *See* Assist Decl. ¶ 11; Easy Decl. ¶ 13.



preventing expansion into new states (such as California, where additional state subsidies are available) or a shift from reliance on serving the high-cost, low subscriber count niche Tribal Lifeline markets to providing service on a volume basis with more widely distributed costs.<sup>227</sup> Even if they had authority to do so, Assist and Easy each lack the capital to acquire customers quickly enough to replace the massive and quick revenue loss that will transpire if the new rules go into effect.<sup>228</sup> Nor could Assist or Easy restructure their contracts with underlying service providers in a manner that may land some prospect of viability to each business.<sup>229</sup> Rapidly declining revenues and subscriber bases, as well as increasing FCC-imposed minimum service level standards, make it plain that no underlying carrier could negotiate rates that would make these businesses viable.<sup>230</sup> For much the same set of reasons, neither Assist nor Easy will be able to continue operations by attracting new investment or financing.<sup>231</sup>

ETC Petitioners, including Assist and Easy, face other significant harms as a result of the *Fourth Report and Order*. Specifically, the *Fourth Report and Order* requires ETC Petitioners to provide subscribers with a 60 day notice, in writing, that “any customers who are currently receiving enhanced support who will no longer be eligible for enhanced support as a result of the changes in [the *Fourth Report and Order*],” and—in the case of rural subscribers who will retain the ability to receive enhanced Tribal benefits—that the subscribers will have the ability to

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<sup>227</sup> See Assist Decl. ¶ 12; Easy Decl. ¶ 14.

<sup>228</sup> See Assist Decl. ¶ 12; Easy Decl. ¶ 14.

<sup>229</sup> See Assist Decl. ¶ 13; Easy Decl. ¶ 15.

<sup>230</sup> See Assist Decl. ¶ 13; Easy Decl. ¶ 15.

<sup>231</sup> See Assist Decl. ¶ 14; Easy Decl. ¶ 16.

switch to a facilities-based provider to maintain their enhanced Tribal Lifeline benefit.<sup>232</sup>

However, the Commission has failed to provide adequate information to enable ETC Petitioners to identify whether and which facilities-based providers are available – or whether they are willing to offer comparable service plans to ETC Petitioners’ subscribers. Although the Commission often seeks assurances that mass transfers of customers will not result in consumers receiving less or paying more for service (or substituting with a service they do not use – in this case wireline service), the Commission has made no such effort here to care for these consumers who are among the most vulnerable in America. It is not difficult to anticipate that consumers will not appreciate this complexity and instead will simply “shoot the messenger.”<sup>233</sup>

Moreover, based on shape-files recently released by the Commission,<sup>234</sup> the agency’s delineation of rural areas appears to exclude a number of towns well below the 25,000 population threshold, which undoubtedly will cause significant subscriber confusion.<sup>235</sup> Because the Commission’s rule changes will have a deleterious and dramatic impact on consumers, and the Commission has done nothing to assess or mitigate these impacts, subscriber confusion and anger about these changes are highly likely to result in a flood of calls to customer service and complaints to state and federal regulators, to which ETC Petitioners must respond.<sup>236</sup> Responding to these calls and complaints will require a significant outlay of resources, including

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<sup>232</sup> See Assist Decl. ¶ 15; Easy Decl. ¶ 17.

<sup>233</sup> See Assist Decl. ¶ 15; Easy Decl. ¶ 17.

<sup>234</sup> The shape-files are available on USAC’s website. See <https://www.usac.org/li/tools/reference-area.aspx>.

<sup>235</sup> See Assist Decl. ¶ 16; Easy Decl. ¶ 18. The Commission has made no effort whatsoever to explain the concept of “urban clusters” to ETCs or consumers.

<sup>236</sup> See Assist Decl. ¶ 17; Easy Decl. ¶ 18.

additional training and legal costs to respond to complaints.<sup>237</sup> Ultimately, the customer confusion and complaints will result in significant damage to ETC Petitioners' goodwill and brands and will make it even more difficult for them to retain customers. If the court ultimately finds that the *Fourth Report and Order* is unlawful, ETC Petitioners will have no way to recover these costs.<sup>238</sup> Nor will ETC Petitioners ever be able to recover the goodwill lost from this impending customer relations disaster.<sup>239</sup>

The harms that ETC Petitioners are likely to face if the *Fourth Report and Order* were to go into effect are great, certain, irreversible, and unrecoverable, putting at least two ETCs – Assist and Easy – who together serve approximately one-third of all Tribal Lifeline subscribers, out of business.<sup>240</sup> Therefore, a stay is warranted.<sup>241</sup>

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<sup>237</sup> See Assist Decl. ¶ 17; Easy Decl. ¶ 18.

<sup>238</sup> See Assist Decl. ¶ 17; Easy Decl. ¶ 18.

<sup>239</sup> See Assist Decl. ¶ 17; Easy Decl. ¶ 18.

<sup>240</sup> In a market in which the Commission has already acknowledged that approximately two-thirds of eligible low-income consumers on Tribal lands have chosen non-facilities-based ETCs as their Lifeline provider, *see Fourth Report and Order* ¶ 23, eliminating two major players will also certainly be harmful to competition in the marketplace, as well as to the more than 90,000 Tribal Lifeline subscribers that have chosen and rely on Assist and Easy for their essential communications needs.

<sup>241</sup> See *Thunder Basin Coal Co. v. Reich*, 510 U.S. 200, 220-21 (1994) (Scalia, J., concurring in part and in the judgment (“[C]omplying with a regulation later held invalid almost always produces the irreparable harm of nonrecoverable compliance costs”)); *Sottera, Inc. v. FDA*, 627 F.3d 891, 898 (D.C. Cir. 2010) (injury to business that could not be remedied constitutes irreparable harm); *Comcast Cable Communications, LLC Orders Setting Basic Equipment Rates Petition for Emergency Stay*, Order, 20 FCC Rcd 8217 (2005) (granting temporary stay where success on review was possible on at least one of petitioner’s claims and where petitioner faced nonrecoupable economic harm); *Brunson Communications, Inc. v. RCN Telecom Services, Inc. (Motion for Stay)*, Memorandum Opinion and Order, 15 FCC Rcd 12883, ¶ 3 (2000) (granting stay because, barring stay, petitioner would incur “costs that will not be recoverable should it prevail on review”); *Heritage Cablevision, Inc. d/b/a TCI of Central Iowa Petition for Stay of Local Rate Order of City of Des Moines, Iowa*, Order, 13 FCC Rcd 22842 (1998) (granting stay where petitioner faced irreparable harm in the form of nonrecoverable economic losses).

## 2. Tribes and Their Members Will Suffer Irreparable Harm

As wireless reseller ETCs are forced to limit their operations or withdraw from the Tribal Lifeline market entirely, Lifeline subscribers on Tribal lands will lose access to essential telephone and broadband services. Low-income individuals that do not subscribe to Lifeline service, but are eligible to do so, also could lose access to phone and broadband service during the pendency of the appeal. For all of these individuals, the result of the *Fourth Report and Order* will be less communication supporting education, employment, and vibrant family and social lives, reduced access to emergency services, and hamstrung initiatives to improve economic development in poverty-stricken areas. No remedy exists for these harms, which strike at the core of human development in American Indian communities across the country.

As explained by representatives of numerous Tribes,<sup>242</sup> and as the Commission itself has recognized,<sup>243</sup> many residents of tribal lands suffer from extreme poverty. For example, on the Crow Creek Indian Reservation, 35 percent of all households live below the poverty line.<sup>244</sup> At 17.5 percent, the unemployment rate is almost five times the national average, with many residents out of workforce entirely.<sup>245</sup> Median incomes are less than \$30,000 per year.<sup>246</sup> Economic circumstances are even more dire on the reservation of the Lac du Flambeau Band of

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<sup>242</sup> See Declaration of Joseph G. Wildcat, Sr., Tribal President of the Lac Du Flambeau Band of Lake Superior Chippewa Indians ¶ 2 (June 21, 2018) (Wildcat Decl.) (attached as **Exhibit C**); Declaration of Jason Schlender, Vice-Chairman of the Tribal Governing Board for the Lac Courte Oreilles Band of Lake Superior Chippewa Indians ¶ 2 (June 21, 2018) (Schlender Decl.) (attached as **Exhibit D**); Declaration of Phylliss J. Anderson, Tribal Chief of the Mississippi Band of Choctaw Indians ¶ 2 (June 20, 2018) (Anderson Decl.) (attached as **Exhibit E**); Crow Creek Tribal Council Resolution at 1.

<sup>243</sup> See 2000 Tribal Lifeline Order ¶ 27.

<sup>244</sup> U.S. Census Bureau, 2012-2016 American Community Survey (2016).

<sup>245</sup> *Id.*

<sup>246</sup> *Id.*

Lake Superior Chippewa Indians, where household incomes average less than \$20,000 per year and unemployment exceeds 27 percent.<sup>247</sup> On the Lac Courte Oreilles Band of Lake Superior Chippewa Indians reservation, the poverty rate is more than 25.5 percent, 21.4 percent of residents are unemployed, and median incomes average less than \$30,150. The household poverty rate on the Mississippi Band of Choctaw Indians reservation exceeds 29 percent.<sup>248</sup> The Leech Lake Band of Ojibwe reports a per-capita income of \$13,103, unemployment hovering near 46 percent, and that more than 73 percent of families live in poverty in one community on the Leech Lake reservation.<sup>249</sup> In addition, many residents on Indian reservations are unbanked or underbanked, meaning they do not have regular access to bank accounts, credit cards, or financing.<sup>250</sup>

Because of these challenging economic conditions, low-income residents on Tribal lands often cannot afford telephone and broadband services at unsubsidized rates, as representatives of Crow Creek, the Lac du Flambeau Band, the Lac Courte Oreilles Band, and the Mississippi Band of Choctaw Indians report.<sup>251</sup> They depend on the Lifeline program, and the enhanced Tribal benefit to which they are entitled, in order to gain access to affordable service. Unsurprisingly,

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<sup>247</sup> Wildcat Decl. ¶ 2.

<sup>248</sup> Schlender Decl. ¶ 2; Anderson Decl. ¶ 2.

<sup>249</sup> Declaration of Sarah Stahelin, Tribal Attorney for the Leech Lake Band of Ojibwe ¶¶ 3, 4 (June 21, 2018) (Stahelin Decl.) (attached as **Exhibit F**).

<sup>250</sup> See Wildcat Decl. ¶¶ 2, 8; Schlender Decl. ¶¶ 2, 8; Anderson Decl. ¶¶ 2, 6; Stahelin Decl. ¶¶ 4, 10.

<sup>251</sup> See Wildcat Decl. ¶¶ 2, 5-9; Schlender Decl. ¶¶ 2, 5-8, 10; Anderson Decl. ¶¶ 5-6, 8-9; Stahelin Decl. ¶¶ 7-8; Crow Creek Tribal Council Resolution at 1. See also *2000 Tribal Lifeline Order* ¶¶ 20-21, 27-28.

Tribal officials also report that the introduction of wireless Lifeline service significantly improved rates of telephone and broadband subscribership on American Indian reservations.<sup>252</sup>

The elimination of enhanced Tribal Lifeline support to wireless reseller ETCs would deprive consumers of the affordable telephone and broadband service on which they have come to depend. On numerous reservations, including the Mississippi Band of Choctaw Indians reservation, the Lac Courte Oreilles reservation, the Leech Lake reservation, and the Lac du Flambeau reservation, wireless Lifeline service is available exclusively from a reseller.<sup>253</sup> Facilities-based wireless providers do not participate in the Lifeline program in these areas.<sup>254</sup> On the Mississippi Band of Choctaw Indians reservation, no facilities-based provide – wireline or wireless – offers Lifeline service.<sup>255</sup> As a result, once the Tribal Facilities Requirement takes effect, eligible residents living on this reservation would have no means of accessing the enhanced Tribal benefit that the FCC's rules allow.<sup>256</sup> Even in cases where facilities-based wireline Lifeline services are offered, consumers do not find them to be suitable substitutes because they are more expensive and do not offer broadband access or mobility.<sup>257</sup> Subscribers that have benefited from the \$25 per month in enhanced Lifeline support, plus the \$9.25 per

<sup>252</sup> See Wildcat Decl. ¶ 5; Schlender Decl. ¶ 5; Stahelin Decl. ¶¶ 7. See also Anderson Decl. ¶ 4.

<sup>253</sup> See Anderson Decl. ¶¶ 3-4; Wildcat Decl. ¶¶ 3-4; Schlender Decl. ¶¶ 3-4; Stahelin Decl. ¶¶ 5-6.

<sup>254</sup> See Anderson Decl. ¶¶ 3-4; Wildcat Decl. ¶¶ 3-4; Schlender Decl. ¶¶ 3-4. See also Crow Creek Tribal Council Resolution at 1 (explaining the exit from the Lifeline program of the sole facilities-based wireless carrier to offer Lifeline on the Crow Creek reservation).

<sup>255</sup> See Anderson Decl. ¶ 4.

<sup>256</sup> See Anderson Decl. ¶ 5.

<sup>257</sup> See Wildcat Decl. ¶¶ 5, 10; see also *id.* ¶ 7; Schlender Decl. ¶¶ 5, 10; see also *id.* ¶ 8; Anderson Decl. ¶¶ 7, 9; Stahelin Decl. ¶ 12.

month in basic Lifeline support, thus would be limited to the basic support amount only.<sup>258</sup>

Many of these low-income subscribers would be unable to absorb the substantial price increases that would result in the absence of the enhanced Tribal benefit.<sup>259</sup> Indeed, the FCC established enhanced support in the amount of \$25 precisely because it functioned as an affordability threshold for most consumers.<sup>260</sup>

Importantly, price increases of any magnitude would create financial and logistical challenges to service continuity that many low-income subscribers would be unable to overcome.<sup>261</sup> Currently, wireless reseller ETCs are able to provide free service using the enhanced Tribal benefit. Even modest recurring charges would create significant hurdles for the many Tribal residents that remain unbanked, as these individuals cannot rely on automatic payments and incur significant transaction fees to obtain cash or use commercial payment services. The prospect that wireless ETCs will have to close physical stores would make it even more difficult for unbanked consumers to remit regular payments.<sup>262</sup>

Of course, wireless resellers serving Tribal lands may simply withdraw from Tribal areas altogether as they lose Tribal customers, and wireless resellers that primarily serve Tribal areas may end up going out of business in the wake of the Tribal Facilities Requirement.<sup>263</sup> These developments would make Lifeline service of any kind, and at any discount, newly unavailable

<sup>258</sup> See Anderson Decl. ¶ 8; Wildcat Decl. ¶¶ 5-7; Schlender Decl. ¶¶ 4-5; Stahelin Decl. ¶¶ 8-9.

<sup>259</sup> See Anderson Decl. ¶¶ 6, 8-9; Wildcat Decl. ¶¶ 5-8; Schlender Decl. ¶¶ 5-9; Stahelin Decl. ¶¶ 7-8. See also Assist Decl. ¶ 9 (discussing likelihood of price increases or complete market withdrawal); Easy Decl. ¶ 12 (same).

<sup>260</sup> See 2000 Tribal Lifeline Order ¶ 46.

<sup>261</sup> Wildcat Decl. ¶¶ 2, 8; Schlender Decl. ¶¶ 2, 8; Anderson Decl. ¶¶ 2, 6; Stahelin Decl. ¶¶ 9-10.

<sup>262</sup> See Assist Decl. ¶ 8; Easy Decl. ¶ 10.

<sup>263</sup> See Assist Decl. ¶ 5; Easy Decl. ¶ 5.

to eligible low-income residents of the Mississippi Band of Choctaw Indians reservation, and in other Tribal areas where Lifeline is available only from a wireless reseller ETC.<sup>264</sup>

Low-income consumers that are priced out of their Lifeline service plans, or that lose access to a Lifeline ETC in their area altogether, would have no alternative for phone or broadband service. Mobile service offerings from non-Lifeline providers would cost even more than an extra \$25 per month, would require payments by credit card that unbanked individuals do not have, and would require large upfront costs for new phones that low-income individuals cannot afford and often cannot finance.<sup>265</sup> The same cost and financial barriers make wireline services generally unavailable to low-income consumers living on Tribal lands, especially on reservations that are not served by a wireline provider that participates in Lifeline.<sup>266</sup> In any event, wireline services are not available to all residences in Tribal communities.<sup>267</sup> And residents of Tribal areas do not view wireline service as a substitute for mobile wireless service given their need to talk and access communications-enabled services, including emergency services, on the go, which is especially vital on large and sparsely populated Indian reservations and their rural surrounds.<sup>268</sup>

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<sup>264</sup> See Anderson Decl. ¶¶ 3-5.

<sup>265</sup> See Anderson Decl. ¶¶ 2, 5-6, 8-9; Wildcat Decl. ¶¶ 5-9; Schlender Decl. ¶¶ 5-9; Stahelin Decl. ¶¶ 7-10

<sup>266</sup> See Anderson Decl. ¶¶ 7, 9.

<sup>267</sup> See Wildcat Decl. ¶ 5; Schlender Decl. ¶ 5; Anderson Decl. ¶ 7.

<sup>268</sup> See Wildcat Decl. ¶¶ 5, 10; *see also id.* ¶ 7; Schlender Decl. ¶¶ 5, 10; *see also id.* ¶ 8; Anderson Decl. ¶¶ 7, 9; Stahelin Decl. ¶ 12.



Moreover, for the reasons discussed at length above,<sup>269</sup> facilities-based carriers are unlikely to enter the Lifeline market and thereby make enhanced support amounts available to Tribal consumers in the wake of the Commission's new rule. Facilities-based carriers already have determined that even enhanced Lifeline support amounts are insufficient to outweigh the burdens of being a Lifeline ETC, and have been relinquishing their authority to provide Lifeline in states across the country.<sup>270</sup>

The mass disconnection that would result if the Tribal Facilities Requirement takes effect would inflict serious, certain, and irreparable harm on Tribal residents. Tribal members need phone and broadband access to search for jobs, connect with employers, and access healthcare and educational services.<sup>271</sup> They also need telecommunications access to communicate with friends and family, and otherwise lead full and enriching lives. Reduced telephone availability also threatens public safety, as fewer residents will be able to communicate in times of emergency.<sup>272</sup> Moreover, the Commission cannot ignore the difficult state of the local economies in and around American Indian reservations. To improve the quality of life enjoyed

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<sup>269</sup> See Section III.A.3(c), *supra*.

<sup>270</sup> See, e.g., *Comments of AT&T* at 6, 27-29; *Comments of Boomerang Wireless* at 13-14; *Navajo Nation Comments* at 10; *Crow Creek Tribal Resolution* at 1.

<sup>271</sup> See Anderson Decl. ¶¶ 7-10 (noting that the effective date of the challenged rules could result in the loss of service "just after the start of the school year and before the holiday season, a critical time for families to stay connected to each other and to essential services"); Wildcat Decl. ¶¶ 5, 9-10; Schlender Decl. ¶¶ 5-9; Stahelin Decl. ¶¶ 11-12.

<sup>272</sup> See Anderson Decl. ¶¶ 8-9; Wildcat Decl. ¶¶ 5, 10; Schlender Decl. ¶¶ 5, 10; Stahelin Decl. ¶ 12.

by their members, numerous tribes have invested significantly in initiatives geared toward economic development, which depend critically on reliable access to telecommunications.<sup>273</sup>

Low-income Tribal residents who are eligible for Lifeline, but who are not currently enrolled in the program, would suffer similar harm. As explained, in areas like the Lac du Flambeau, Lac Courte Oreilles, Leech Lake, and Mississippi Band of Choctaw Indians reservations, wireless Lifeline service is available only through a reseller. Once the Tribal Eligibility Requirement becomes effective, eligible but unenrolled individuals living in these areas will be unable to sign up for service. Lifeline service will be less affordable if it is available at all, and the “skeleton crews” maintained by wireless reseller ETCs to cope with vastly diminished revenues will hamper customer care and outreach necessary for continued enrollment.<sup>274</sup> Even if the court vacates the Tribal Facilities Requirement and a reseller eventually resumes offering Lifeline service, eligible individuals that would have enrolled in Lifeline will lose months of communications access in the interim. There is no remedy available to compensate these individuals for the missed opportunities, foregone speech and social and familial interactions, and lack of access to essential services that they will suffer in the absence of a stay. Given persistent under-enrollment in the Lifeline program, the magnitude of these harms will be substantial.<sup>275</sup>

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<sup>273</sup> See; Wildcat Decl. ¶¶ 5, 9; Schlender Decl. ¶¶ 5, 9; *see also* Anderson Decl. ¶¶ 9-10; Stahelin Decl. ¶ 11.

<sup>274</sup> See Assist Decl. ¶ 7; Easy Decl. ¶ 9.

<sup>275</sup> See Anderson Decl. ¶ 4 (explaining that 20 percent of Lifeline-eligible members of the Mississippi Band of Choctaw Indians have wireless Lifeline service); Stahelin Decl. ¶¶ 3, 11 (574 of Leech Lakers have Lifeline service, while several thousands live with very low incomes).

Tribes like Crow Creek that lost access to wireless Lifeline service after facilities-based providers exited the Lifeline business also will be harmed irreparably absent a stay. As explained by the Crow Creek Sioux Tribal Council, the Crow Creek reservation used to have access to wireless Lifeline service from Western Wireless, a facilities-based wireless carrier.<sup>276</sup> However, after Western Wireless was acquired by Alltel and then Verizon in the 2000s, Verizon stopped providing Lifeline service and eventually relinquished its status as an ETC as it has done in jurisdictions across the country.<sup>277</sup> Due to Verizon's lack of interest in providing Lifeline, Crow Creek has been working with a reseller of Verizon service in order to restore wireless Lifeline service on the reservation. Crow Creek fears that those efforts could be delayed indefinitely if the Tribal Facilities Requirement becomes effective. Indeed, in response to the Tribal Facilities Requirement, wireless reseller ETCs have stated that will dramatically pare back—not expand—service offerings and will go out of business completely.<sup>278</sup> A stay thus would be necessary for Crow Creek to succeed in its efforts to regain access to wireless Lifeline service, and would ensure that eligible low-income residents of the Crow Creek reservation do not go without connectivity for any longer than they must.

**C. Other Interested Parties Will Not Be Harmed**

Staying the Fourth Report and Order will not significantly harm other interested parties. Preserving the Tribal Lifeline program as it exists today will maintain the status quo for ratepayers and contributors and will not impose any additional costs on those parties. Even if the D.C. Circuit were to take a full year beyond effective date of the *Fourth Report and Order* to

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<sup>276</sup> Crow Creek Tribal Council Resolution at 1.

<sup>277</sup> *Id.*

<sup>278</sup> *See* Assist Decl. ¶ 5; Easy Decl. ¶ 5.

decide the pending appeals, the impact on the Universal Service Fund would be less than 1% of the annual budget of the Fund, hardly a "significant" harm.

**D. A Stay Is in the Public Interest and Will Prevent Harm**

The public interest would benefit from a stay. As explained above, a stay would allow eligible low-income subscribers that depend on enhanced Lifeline support to continue to access the telephone and broadband services they need to communicate with friends and family, connect with employers and prospective employers, and access essential services, including healthcare, educational, and emergency services. By improving access to connectivity, a stay would not only improve the well-being of individual Lifeline subscribers, but also promote economic development, public safety, and community welfare on impoverished American Indian reservations confronting challenging economic and social conditions. In addition, a stay would prevent the substantial social harms that would result if wireless reseller ETCs that depend on Tribal consumers dramatically reduce operations or go out of business.

#### IV. CONCLUSION

The Commission should grant a partial stay of the *Fourth Report and Order* pending judicial review.

Respectfully Submitted,

/s/ Christopher J. Wright

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and Easy Telephone Services Company  
d/b/a Easy Wireless*

June 22, 2018

# EXHIBIT A

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20544

In the Matter of	)	
	)	
Bridging the Digital Divide for Low-Income Consumers	)	WC Docket No. 17-287
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197
	)	

**DECLARATION OF DAVID DORWART**

I, David Dorwart, declare as follows:

1. I am more than 18 years of age and am the owner and Chairman of Assist Wireless (Assist or the Company).
2. I submit this declaration in support of the Petition for Stay of Fourth Report and Order Pending Judicial Review filed with the Federal Communications Commission (FCC).  
Unless expressly stated, this declaration is based on my personal knowledge.
3. Assist is a wireless reseller that is designated as an eligible telecommunications carrier (ETC) and provides Lifeline service in Arkansas, Maryland, Missouri, and Oklahoma including on federally recognized Tribal lands in Oklahoma.
4. As of June 1, 2018, Assist provides Lifeline service to approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] subscribers, including [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] subscribers who receive the enhanced Lifeline benefit. The vast majority of our Lifeline subscribers are residents of Tribal lands in Oklahoma.

5. As demonstrated by the attached financial statements, if a stay is denied and the *Fourth Report and Order* goes into effect, Assist will cease operations and go out of business within six to twelve months. This harm is great, certain, irreversible, and unrecoverable.

6. Most immediately, the *Fourth Report and Order* will cause Assist to lose Tribal Lifeline revenues associated with [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] subscribers, representing [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] percent of its subscriber base. These Tribal Lifeline revenues account for approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] percent of Assist's annual revenues. This loss of revenues will have a devastating and irreversible impact on Assist's business.

7. Having lost the vast majority of its revenues, Assist will be forced to abandon its current business model and practices and significantly limit operations. After the Commission adopted the *Fourth Report and Order*, Assist was forced to terminate [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] percent of its staff and close three of its storefront locations. If the *Fourth Report and Order* were to go into effect, Assist will immediately cease marketing and advertising for new Lifeline subscribers (except as required by FCC or state regulation), wind down existing distribution until existing inventory was distributed, and shift to a "harvesting" posture (i.e., servicing existing subscribers, but not actively seeking new subscribers). At the same time, Assist would lay off all remaining employees who work in distribution, marketing, sales, agent support, and warehousing, leaving a "skeleton crew" to handle regulatory compliance and customer service for remaining Assist subscribers.



8. Soon thereafter (after exiting existing leasing arrangements), Assist will also close all of its 24 remaining stores that currently serve its existing subscriber base. These stores are the most essential component of its ability to reach and serve low-income Tribal residents and have provided a competitive advantage to Assist through high-touch, in-person, local customer service. For Tribal subscribers, Assist has found that in-store support is essential for them to receive assistance with their devices and service, and to develop digital literacy skills. In March and April 2018, [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] percent of Assist's business ran through its retail stores, in addition to approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] in-store device replacements per month for existing subscribers. Without these stores and the essential services they provide, Assist's subscriber churn will increase swiftly and dramatically.

9. The effect of the new rules on Assist's remaining subscribers is easy to project, as rule changes that went into effect two years ago had a similar effect but on a more limited scale with Oklahoma City residents being removed from the Tribal Lifeline program. For its remaining Tribal Lifeline subscribers, Assist must either offer a comparatively minimalist free-to-end-user service plan for the \$9.25 per month basic Lifeline subsidy or continue to offer its robust bundle of mobile voice, text and broadband at an increased consumer price of \$25 per month. Where a facilities-based wireless Lifeline competitor makes available an enhanced Tribal Lifeline service, Assist's basic (non-Tribal) Lifeline service offering will not be able to effectively compete with a facilities-based ETC's Tribal Lifeline service offering that relies on nearly four times the level of subsidies.

10. The basic Lifeline service business model is unsustainable for Assist because the average [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] lifespan of an

Assist basic Lifeline customer is shorter than the period necessary to break even based on current cost structures and overhead to support such subscribers. Indeed, based on Assist's internal estimates, it will never be able to break even on a free-to-end-user basic Lifeline plan. If Assist were to raise prices, its experience demonstrates that consumers would not have the means to pay for service and would disconnect their service plan. Any of these circumstances would lead to income statement losses which would quickly result in Assist's going out of business.

11. Assist expects that the new rules will result in rapidly accelerated churn with the vast majority of its subscribers leaving its service within one year of the effective date of the *Fourth Report and Order*. On average, Assist loses nearly [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] of its subscribers each month to attrition. If the *Fourth Report and Order* goes into effect, this disconnection rate will be aggravated by Assist's inability to provide the level of customer service—including through its stores—that its subscribers deserve and have come to expect. Accelerated churn will result from a combination of easily predictable factors: (1) Lifeline customers do not have the means to pay \$25 per month for service; (2) Assist's customers will be tremendously dissatisfied with the basic Lifeline service offering that does not provide them with the level of voice and broadband access they have grown to rely upon; (3) Assist will be unable to maintain its high level of customer care nor its store fronts that have been essential to customer education and satisfaction.

12. Because it lacks FCC approval to do so, Assist will not be able to offset losses caused by the *Fourth Report and Order* through expansion into new or existing territories, including markets like California where additional state subsidies are available. Even if it had authority to do so, the Company lacks the capital to acquire customers quickly enough to replace the massive and quick revenue loss that will transpire with new rules going into effect.

13. Assist also will not be able to stem future harm by renegotiating its rates with its underlying carriers. Assist currently uses Sprint and a T-Mobile aggregator—Plintron—as its underlying providers. In order to remain profitable, Assist would need to renegotiate its rates with both Sprint and Plintron. However, with a dwindling subscriber base, loss of approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] of its revenues, and increasing FCC-imposed minimum service level standards, it's certain that Sprint or Plintron will not be willing or able to negotiate rates down from current levels to a near-zero rate that possibly could create a way for Assist to stay in business. Indeed, despite efforts to renegotiate rates for the past six months, Assist has been unable to secure new rates from Sprint. Without the enhanced Tribal subsidy and with increasingly high-risk subscribers, renegotiation will be nearly impossible.

14. Assist also will not be able to continue operations through new financing. The *Fourth Report and Order* makes it uneconomical for Assist to serve Tribal lands under the new support structure, and the Commission has proposed to eliminate basic Lifeline support for wireless resellers. Given this cloud of uncertainty, Assist will be unable to attract new investment.

15. Assist will also face other significant harms as a result of the *Fourth Report and Order*. Specifically, the *Fourth Report and Order* requires Assist to provide its subscribers with a 60 day notice, in writing, that “any customers who are currently receiving enhanced support who will no longer be eligible for enhanced support as a result of the changes in [the *Fourth Report and Order*],” and—in the case of rural subscribers who will retain the ability to receive enhanced Tribal benefits—that the subscribers will have the ability to switch to a facilities-based provider to maintain their enhanced Tribal Lifeline benefit. However, the Commission has failed

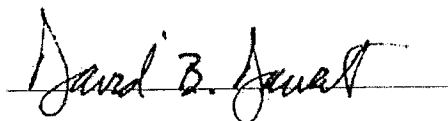
to provide adequate information to enable Assist to identify whether and which facilities-based providers are available – or whether they are willing to offer comparable service plans to Assist's subscribers. Although the Commission often seeks assurances that mass transfers of customers will not result in consumers receiving less or paying more for service (or substituting with a service they do not use – in this case wireline service), the Commission has made no such effort here to care for these consumers who are among the most vulnerable in America. It is not difficult to anticipate that consumers will not appreciate this complexity and instead will simply "shoot the messenger."

16. Moreover, based on shape-files recently released by the Commission, the agency's delineation of rural and urban areas appears to classify several towns with populations well below the 25,000 population threshold as "urban," which undoubtedly will cause significant subscriber confusion. The Commission has made no effort whatsoever to explain the concept of "urban clusters" to ETCs or consumers.

17. Because the Commission's rule changes will have a deleterious and dramatic impact on consumers, and the Commission has done nothing to assess or mitigate these impacts, subscriber confusion and anger about these changes will result in a flood of calls to customer service and complaints to state and federal regulators, to which affected ETCs must respond. Our experience is that customers blame the carrier and often do not believe that changes such as those made in the *Fourth Report and Order* are a product of regulation outside of Assist's control. Responding to these calls and complaints will require a significant outlay of resources, including additional training, and legal costs to respond to complaints. If the court ultimately finds that the *Fourth Report and Order* is unlawful, Assist will have no way to recover these

costs. Nor will Assist ever be able to recover the goodwill lost from this impending customer relations disaster.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury of the laws of the United States of America that the foregoing statements are true and correct.

A handwritten signature in cursive script, appearing to read "David B. Dorwart", written over a horizontal line.

David Dorwart

June 22, 2018

REDACTED FOR PUBLIC INSPECTION

WITHHELD FROM PUBLIC INSPECTION

# EXHIBIT B

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20544

In the Matter of	)	
	)	
Bridging the Digital Divide for Low-Income Consumers	)	WC Docket No. 17-287
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197
	)	

**DECLARATION OF JOE FERNANDEZ**

I, Joe Fernandez, declare as follows:

1. I am more than 18 years of age and am President of Easy Telephone Services Company d/b/a Easy Wireless (Easy or the Company).
2. I submit this declaration in support of the Petition for Stay of Fourth Report and Order Pending Judicial Review filed with the Federal Communications Commission (FCC).  
Unless expressly stated, this declaration is based on my personal knowledge.
3. Easy is a wireless reseller that is designated as an eligible telecommunications carrier (ETC) and provides Lifeline service in four states—Arkansas, Kentucky, Missouri, and Oklahoma—including on federally recognized Tribal lands.
4. As of June 1, 2018, Easy provides Lifeline service to an estimated [BEGIN  
CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] subscribers, including [BEGIN  
CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] subscribers who receive the enhanced Lifeline benefit. The vast majority of our Lifeline subscribers are residents of Tribal lands in Oklahoma.



5. As demonstrated by the attached financial statements, if a stay is denied and the *Fourth Report and Order* goes into effect, Easy will cease operations and go out of business within twelve months. This harm is great, certain, irreversible, and unrecoverable.

6. Most immediately, the *Fourth Report and Order* will cause Easy to lose Tribal Lifeline revenues associated with [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] subscribers, representing [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] percent of its subscriber base. These Tribal Lifeline revenues account for approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] percent of Easy's annual revenues. This loss of revenues will have a devastating and irreversible impact on Easy's business.

7. Easy operates within a niche space in the Lifeline industry. Specifically, its business model is focused on providing Lifeline services to eligible subscribers located on Tribal lands. Easy's aim at satisfying this specific consumer need in a small and hard to reach market segment results in higher acquisition and operational costs, unlike those ETCs in the non-Tribal space that focus on volume in more densely populated areas. Easy's operational and compliance requirements are substantially similar to that of an ETC focusing in the non-Tribal space. But, with Easy's small subscriber base, its per subscriber costs are much higher, requiring more income per subscriber to offset.

8. Because of its small subscriber base and high cost structure, Easy could not simply approach its business in the same way but with a \$9.25 subsidy rather than a \$34.25 subsidy for most customers. Easy's subscriber base isn't large enough to spread and cover its costs and the average [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] lifespan of an Easy non-Tribal customer is shorter than the period necessary to break even on

customer acquisition costs. Indeed, the attached financial projections demonstrate that if Easy marketed and provided service to only non-Tribal Lifeline customers, its business model would not be sustainable. If Easy were to raise prices, its experience demonstrates that consumers would not have the means to pay for service and would disconnect their service plan. Any of these circumstances would lead to perpetual income statement losses which would quickly result in Easy's going out of business.

9. If the Tribal Lifeline rule changes go into effect resulting in the loss of the vast majority of Easy's revenues, Easy will be forced to abandon its current business model and practices and instead immediately cease distribution and marketing for new Lifeline subscribers (except as required by FCC or state regulation), shifting to a "harvesting" posture (i.e., servicing existing subscribers, but not actively seeking new subscribers). Easy's commonly-owned affiliates, Telecom Service Bureau (TSB) and Mobile Management, Inc, which provide all of the support for Easy's operations and distribution, will lay off [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] employees who work in distribution, marketing, and warehousing. TSB will retain [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] employees to handle regulatory compliance and customer service for remaining Easy subscribers.

10. Easy will also close all of its 28 dealer stores that currently serve its existing subscriber base. These stores are an essential component of Easy's ability to reach and serve low-income residents of Tribal lands and have provided a competitive advantage to Easy through high-touch, in-person, local customer service. For example, approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] subscribers visit Easy stores each month for device warranty issue or swap. This does not include the subscribers that visit these stores

daily for technical and customer support purposes, and to make payments and complete recertification of eligibility. For these subscribers, Easy has found that in-store support is essential for them to receive assistance with their devices and service, and to develop digital literacy skills. Without these stores, Easy's subscriber churn will increase swiftly and dramatically.

11. As the attached financial statements illustrate, this harvesting model would be the only rational one for the Company under these circumstances. It is a Hobson's choice for the Company between quick and sudden death and an irreversible death spiral that transpires over the better part of a year. As a result of "harvesting," Easy will delay but not avoid a certain death as a company. Once the process starts, it is irreversible. There will be neither the time nor financial resources available to resurrect the intellectual talent, good will, and physical assets that have made the Company a success and a key partner in the Lifeline program in Oklahoma. The Company will for certain go out of business within a year.

12. The effect of the new rules on Easy's remaining subscribers is easy to project, as rule changes that went into effect two years ago had a similar effect but on a more limited scale with Oklahoma City residents being removed from the Tribal Lifeline program. For its remaining Tribal Lifeline subscribers, Easy must either offer a comparatively minimalist free-to-end-user service plan for the \$9.25 per month basic Lifeline subsidy, or continue to offer its existing robust bundle of mobile voice, text and broadband at an increased consumer price of \$25 per month. Where a facilities-based wireless Lifeline competitor makes available an enhanced Tribal Lifeline service, Easy's basic (non-Tribal) Lifeline service offering will not be able to effectively compete with a facilities-based ETC's Tribal Lifeline service offering that relies on nearly four times the level of subsidies.

13. Easy expects that new rules will result in rapidly accelerated churn with the vast majority of its subscribers leaving its service within one year of the effective date of the *Fourth Report and Order*. Accelerated churn will result from a combination of easily predictable factors: (1) Lifeline customers do not have the means to pay \$25 per month for service; (2) Easy's customers will be tremendously dissatisfied with the basic Lifeline service offering that does not provide them with the level of voice and broadband access they have grown to rely upon; and (3) Easy will be unable to maintain its high level of customer care nor its store fronts that have been essential to customer education and satisfaction.

14. Because it lacks FCC authority to do so, Easy will not be able to offset losses caused by the *Fourth Report and Order* through expansion into new territories including markets like California where additional state subsidies are available. Even if it had authority to do so, the company lacks the capital to acquire customers quickly enough to replace the massive and quick revenue loss that will transpire with new rules going into effect.

15. Easy also will not be able to stem future harm by renegotiating its rates with its underlying carrier Sprint. With a dwindling subscriber base, loss of approximately [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] of its revenues, and increasing FCC-imposed minimum service level standards, it's certain that Sprint will not be willing or able to negotiate its rates down from current levels to a near-zero rate that possibly could create a way for Easy to stay in business.

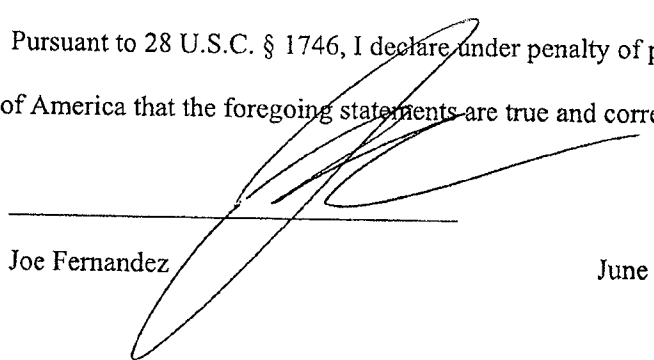
16. Easy also will not be able to continue operations through new financing. The *Fourth Report and Order* makes it uneconomical for Easy to serve Tribal lands under the new support structure, and the Commission has proposed to eliminate basic Lifeline support for wireless resellers. Given this cloud of uncertainty, Easy will be unable to attract new investment.

17. Easy will also face other significant harms as a result of the *Fourth Report and Order*. Specifically, the *Fourth Report and Order* requires Easy to provide its subscribers with a 60 day notice, in writing, that “any customers who are currently receiving enhanced support who will no longer be eligible for enhanced support as a result of the changes in [the *Fourth Report and Order*],” and—in the case of rural subscribers who will retain the ability to receive enhanced Tribal benefits—that the subscribers will have the ability to switch to a facilities-based provider to maintain their enhanced Tribal Lifeline benefit. However, the Commission has failed to provide adequate information to enable Easy to identify whether and which facilities-based providers are available – or whether they are willing to offer comparable service plans to Easy’s subscribers. Although the Commission often seeks assurances that mass transfers of customers will not result in consumers receiving less or paying more for service (or substituting with a service they do not use – in this case wireline service), the Commission has made no such effort here to care for these consumers who are among the most vulnerable in America. It is not difficult to anticipate that consumers will not appreciate this complexity and instead will simply “shoot the messenger.”

18. Moreover, based on shape-files recently released by the Commission, the agency’s delineation of rural and urban areas appears to classify several towns with populations well below the 25,000 population threshold as “urban,” which undoubtedly will cause significant subscriber confusion. The Commission has made no effort whatsoever to explain the concept of “urban clusters” to ETCs or consumers. Because the Commission’s rule changes will have a deleterious and dramatic impact on consumers, and the Commission has done nothing to assess or mitigate these impacts, subscriber confusion and anger about these changes will result in a flood of calls to customer service and complaints to state and federal regulators, to which

affected ETCs must respond. Our experience is that customers blame the carrier and often do not believe that changes such as those made in the *Fourth Report and Order* are a product of regulation outside of Easy's control. Responding to these calls and complaints will require a significant outlay of resources, including additional training, and legal costs to respond to complaints. If the court ultimately finds that the *Fourth Report and Order* is unlawful, Easy will have no way to recover these costs. Nor will Easy ever be able to recover the goodwill lost from this impending customer relations disaster.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury of the laws of the United States of America that the foregoing statements are true and correct.



---

Joe Fernandez

June 22, 2018

REDACTED FOR PUBLIC INSPECTION

WITHHELD FROM PUBLIC INSPECTION

REDACTED FOR PUBLIC INSPECTION

WITHHELD FROM PUBLIC INSPECTION



# EXHIBIT C

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Bridging the Digital Divide for Low-Income Consumers	)	WC Docket No. 17-287
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197
	)	

**DECLARATION OF  
LAC DU FLAMBEAU BAND OF LAKE SUPERIOR CHIPPEWA INDIANS**

**William Wildcat, Sr. Community Building  
P.O. Box 67  
418 Little Pines Road  
Lac du Flambeau, Wisconsin 54538**

I, Joseph G. Wildcat, Sr., hereby declare as follows:

1. I am the Tribal President of the Lac du Flambeau Band of Lake Superior Chippewa Indians, a position I have held since October, 2016. I am responsible for the administration of the Tribe. I submit this declaration in support of a motion for stay pending judicial review of the Lifeline Fourth Report and Order filed by Crow Creek Sioux Tribe, Oceti Sakowin Tribal Utility Authority, National Lifeline Association, Assist Wireless, LLC, Boomerang Wireless, LLC, and Easy Telephone Service Company.

2. The Lac du Flambeau Band of Lake Superior Chippewa Indians is a federally recognized Indian tribe located in the County of Vilas in northern Wisconsin, an area that suffers from extreme poverty. On the reservation of the Lac du Flambeau Band of Lake Superior

Chippewa Indians reservation, more than thirty-five percent of households live in poverty. The unemployment rate among Tribal residents exceeds twenty-seven percent, and household incomes average less than \$20,000.00 per year. Because of their low incomes, many residents of the Lac du Flambeau reservation cannot afford essential services, including telecommunications services, at unsubsidized rates. In addition, many residents of the Lac du Flambeau reservation are unbanked or underbanked. This makes it difficult, and much more expensive, to make even modest monthly payments for recurring services.

3. The facilities-based wireless carriers that provide mobile network coverage on the reservation are Verizon and AT&T. None of these carriers offer Lifeline service on the reservation. I am not aware of any recent effort by these carriers, or any other facilities-based wireless carriers, to introduce Lifeline service on the Lac du Flambeau reservation.

4. The only provider of wireless Lifeline service on the reservation is Northern American Local, which is a mobile virtual network operator ("MVNO") that resells service provided by Verizon. Based on existing Lifeline support amounts, this carrier is able to offer wireless service to eligible low-income subscribers on the reservation free of charge.

5. If Northern American Local and other MVNOs deemed ineligible for enhanced tribal support decide to exit the Lifeline market, many low-income residents of the Lac du Flambeau reservation will lose telephone and broadband service with no affordable alternatives available. Unsubsidized wireless plans are prohibitively expensive for most low-income households on the reservation, as are fixed telephone and Internet access services, which are not available in all locations in any event. Indeed, although precise statistics on these matters are not maintained, my experience as a member of tribal leadership is that levels of telephone

subscribership improved substantially after the introduction of wireless Lifeline service (though they remain very low by nationwide standards).

6. Likewise, if MVNOs raise rates in response to the unavailability of enhanced tribal support, their wireless plans will no longer be affordable for many existing customers. A large drop in subscribership can be expected for several reasons.

7. First, at \$25 per month, the enhanced tribal support amount is very large when compared to the basic Lifeline subsidy level of \$9.25 per month, meaning that any price increases could be substantial.

8. Second, a price increase of any kind would force unbanked tribal members make costly and inconvenient out-of-pocket payments that are not necessary under the current Lifeline rules. As explained, with existing support amounts, MVNOs typically are offering some level of Lifeline wireless service free of charge. As a result, many existing Lifeline subscribers do not need to arrange recurring payments to the carrier, which greatly facilitates sustained enrollment for the many tribal members that lack regular access to banking services. Indeed, on the 144 square miles of land in the Lac du Flambeau reservation, there are very few facilities that offer money order or cash transfer services. There is one bank, there are no money transfer locations (like Western Union), and there is just one U.S. post office serving the reservation, meaning that a subscriber may have to travel very long distances to remit a monthly payment, in addition to paying any applicable service fees.

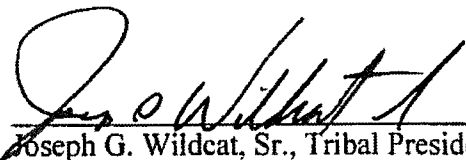
9. The widespread disconnection of tribal members enrolled in the Lifeline program would threaten the success of recent economic development initiatives, all of which depend on access to telephone and broadband service. Efforts of tribal members to obtain employment would be thwarted, as tribal members would be unable to contact prospective employers via phone or

internet, and likewise could not be reached by employers. Tribal members would be unable to contact the Tribe's transit system for transport to the workplace, employment interviews, or medical appointments. Tribal members would be unable to communicate with or receive timely messages from the schools responsible for the education of their children, nor would they have the ability to stay in touch with family and friends. Further, they would be deprived of communications from the Tribal government, given that most Tribal members are only able to access the internet via their phones, and the Tribal government relies on email to communicate with Tribal members.

10. In addition, without a wireless voice subscription, members of the Lac du Flambeau Band of Lake Superior Chippewa Indians would lose access to emergency services. Specifically, they would be unable to summon law enforcement, the fire department, or an ambulance; they would not receive Amber Alerts; and they would have no access to emergency alerts from the Tribal Emergency Management System, in the event of a natural disaster or other emergency.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on: June 21, 2018

  
 \_\_\_\_\_  
 Joseph G. Wildcat, Sr., Tribal President  
 Lac du Flambeau Band of  
 Lake Superior Chippewa Indians  
 William Wildcat, Sr. Community Building  
 P.O. Box 67, 418 Little Pines Road  
 Lac du Flambeau, Wisconsin 54538  
 715-588-4206, JWildcatsr@ldftribe.com

# EXHIBIT D

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Bridging the Digital Divide for Low-Income Consumers	)	WC Docket No. 17-287
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197
	)	

**DECLARATION OF JASON SCHLENDER**

Jason Schlender  
Vice-Chairman of the Lac Courte Oreilles  
Tribal Governing Board  
13394 W Trepanier Rd.  
Hayward, WI 54843

June 21, 2018

**DECLARATION OF JASON SCHLENDER**

I, Jason Schlender, hereby declare as follows:

1. I am the Vice-Chairman of the Tribal Governing Board for the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. I was elected to the Tribal Governing Board in 2015, and have been Vice-Chairman since mid-2017. My responsibilities include working to protect the tribe, tribal members, the tribe's resources, and overall ensuring that tribal members have a voice, in all the issues that impact their lives and the reservation. I submit this declaration in support of a motion for stay pending judicial review of the Lifeline Fourth Report and Order filed by Crow Creek Sioux Tribe, Oceti Sakowin Tribal Utility Authority, National Lifeline Association, Assist Wireless, LLC, Boomerang Wireless, LLC, and Easy Telephone Service Company.

2. The Lac Courte Oreilles Band of Lake Superior Chippewa Indians is a federally recognized Indian tribe located in Wisconsin, an area that grapples with poverty issues daily. On the Lac Courte Oreilles reservation, more than 25.5 percent of households live in poverty. The unemployment rate is 21.4 percent, and household incomes average less than \$30,150 per year. Because of their low incomes, many residents of the Lac Courte Oreilles reservation cannot afford essential services, including telecommunications services, at unsubsidized rates. In addition, most residents of the Lac Courte Oreilles reservation are unbanked or underbanked. This makes it difficult, and much more expensive, to make even modest monthly payments for recurring services.

3. The facilities-based wireless carriers that provide mobile network coverage on the reservation are AT&T and Verizon. None of these carriers offer Lifeline service on the



reservation. I am not aware of any recent effort by these carriers, or any other facilities-based wireless carriers, to introduce Lifeline service on the Lac Courte Oreilles reservation.

4. The only provider of wireless Lifeline service on the reservation is North American Local, which is a mobile virtual network operator ("MVNO") that resells service provided by carriers. Based on existing Lifeline support amounts, these carriers are able to offer wireless service to eligible low-income subscribers on the reservation free of charge.

5. If MVNOs deemed ineligible for enhanced tribal support decide to exit the Lifeline market, many low-income residents of the Lac Courte Oreilles reservation will lose telephone and broadband service with no affordable alternatives available. Unsubsidized wireless plans are prohibitively expensive for most low-income households on the reservation, as are fixed telephone and Internet access services, which are not available in all locations in any event. Through my experience as an elected leader, I have seen the positive impact that the introduction of wireless Lifeline service has had in the community. Many people, who would otherwise not be able to afford or maintain telephone services have greatly benefited, as well as the community. This has significantly increased safety, security and improved the overall health on the reservation, as more tribal members are now to be able to make calls and receive calls and communicate when needed. Emergency services, whether that be an ambulance, firefighters, the police or even loved ones, are now just a call away, if residents need assistance in any number of scenarios. This is especially important in critical cases, or cases involving elders, if there is a life threatening emergency.

6. Likewise, if MVNOs raise rates in response to the unavailability of enhanced tribal support, their wireless plans will no longer be affordable for many existing customers. A large drop in subscribership can be expected for several reasons.

7. First, at \$25 per month, the enhanced tribal support amount is very large when compared to the basic Lifeline subsidy level of \$9.25 per month, meaning that any price increases could be substantial.

8. Second, a price increase of any kind would force unbanked tribal members make costly and inconvenient out-of-pocket payments that are not necessary under the current Lifeline rules. As explained, with existing support amounts, MVNOs typically are offering some level of Lifeline wireless service free of charge. As a result, many existing Lifeline subscribers do not need to arrange recurring payments to the carrier, which greatly facilitates sustained enrollment for the many tribal members that lack regular access to banking services. Indeed, on the 76,500 acres of land in the Lac Courte Oreilles reservation, there are very few to no facilities that offer any kind of money order or cash transfer services. There is one Federal L.C.O, Credit Union, no money transfer locations (like Western Union), and no U.S. post offices serving the reservation, meaning that a subscriber may have to travel a significant distance to remit a monthly payment, in addition to paying any applicable service fees.

9. The widespread disconnection of tribal members enrolled in the Lifeline program would threaten the success of recent economic development initiatives, all of which depend on access to telephone and broadband service. The tribe is always seeking new ways to create economic development in a responsible way, as being located in a rural area has not provided for as many economic opportunities when compared to other tribes who may be located in or around urban areas. Having access to these services has enabled community members to better seek employment, maintain employment, start their own businesses, be more active in their community, and ultimately, has boosted economic development.

10. In addition, without a wireless voice subscription, Lac Courte Oreilles tribal members will lose access to emergency services. As stated earlier, the positive impact that has been recognized in our community through increased access to emergency services has been very substantial. Elders, who may otherwise have no way to call family members, caregivers, or emergency services, are able to take a great deal of comfort in knowing they will be able to do so, should the need arise. Please do not take this critical service away.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on: June 21, 2018

  
[Declarant] Jason Schlender

# EXHIBIT E

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Bridging the Digital Divide for Low-Income Consumers	)	WC Docket No. 17-287
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197
	)	

**DECLARATION OF PHYLISS J. ANDERSON**

Mississippi Band of Choctaw Indians  
101 Industrial Road  
P.O. Box 6010  
Choctaw, Mississippi 39350

June 20, 2018

**DECLARATION OF PHYLISS J. ANDERSON**

I, Phyliss J. Anderson, hereby declare as follows:

1. I am the Tribal Chief of the Mississippi Band of Choctaw Indians, a position I have held since 2011. As Tribal Chief I serve as the principal executive officer of the Tribe and as head of the Executive Branch of the Tribal government. I submit this declaration in support of a motion for stay pending judicial review of the Lifeline Fourth Report and Order filed by Crow Creek Sioux Tribe, Oceti Sakowin Tribal Utility Authority, National Lifeline Association, Assist Wireless, LLC, Boomerang Wireless, LLC, and Easy Telephone Service Company.

2. The Mississippi Band of Choctaw Indians is a federally recognized Indian tribe located in rural parts of Mississippi, a 10 county area that suffers from pervasive poverty. On the Mississippi Band of Choctaw Indians Reservation, more than 29 percent of households live in poverty. The unemployment rate is 13.7 percent, and the median household income is \$32,604 per year. Because of their low incomes, many residents of the Mississippi Band of Choctaw Indians reservation cannot afford essential services, including telecommunications and broadband services, at unsubsidized rates. In addition, many residents of the Mississippi Band of Choctaw Indians reservation are unbanked or underbanked. This makes it difficult, and typically much more expensive, to make even modest monthly payments for recurring services.

3. Although facilities-based wireline and wireless carriers provide network coverage on the reservation, none of these carriers offer Lifeline service on the reservation. I am not aware of any recent effort by these carriers, or any other facilities-based carriers, to introduce Lifeline service on the Mississippi Band of Choctaw Indians reservation.

4. The only provider of Lifeline service on the reservation is Boomerang Wireless, which offers service using the enTouch Wireless brand as a mobile virtual network operator

("MVNO") that resells the Verizon Wireless network. Based on existing Lifeline support amounts, enTouch is able to offer robust bundles of wireless voice, text and broadband service to eligible low-income subscribers on the reservation free of charge. Boomerang's current Tribal Lifeline plan in Mississippi offers unlimited voice minutes and text messages and 1.5 gigabytes (GB) of data, together with a free smartphone, free of charge. Boomerang's non-Tribal Lifeline plan offers 750 minutes of voice service, unlimited text messages, and 100 megabytes (MB) of data, free of charge. Boomerang provides Lifeline service to as much as 1874 members of the Choctaw Band of Indians residing on rural Tribal lands in Mississippi. Boomerang has provided Lifeline service to as much as 20% of our Tribe's eligible members in Mississippi.

5. If, as a wireless reseller, Boomerang is deemed ineligible to provide enhanced Tribal Lifeline support, there will be no way for Lifeline eligible members of the Mississippi Band of Choctaw Indians to obtain the enhanced Tribal benefit for which they are eligible, despite the fact that the FCC has determined that the enhanced benefit is vitally important to address lagging rates of subscribership to essential communications services on Tribal lands. By banning resellers from the Tribal Lifeline program, the FCC will have effectively denied our Tribal residents a benefit for which they are eligible under the FCC's rules. Such harm is complete and irreparable.

6. The absence of enhanced Tribal Lifeline support would mean that our members would need to pay \$25 or more each month to maintain the level of service they have enjoyed under the current Tribal Lifeline program. Few if any of our Lifeline eligible subscribers could afford to pay an additional \$25 in any month, let alone on a regular monthly basis. Comparable mobile service offerings from non-Lifeline providers are even more expensive, and typically require a subscriber to prepay for service using a valid credit card on file, purchase a new



handset, and replace his or her existing phone number with a new number. Because many members of our Tribe are extremely impoverished and unbanked, these burdens are both financially and logistically impossible to overcome.

7. In some situations, a wireline service offering may be available. However, members of our Tribe overwhelmingly have selected wireless Lifeline service because they rely on mobile features of wireless service to stay connected with their families, jobs, schools, and other essential services while on the go. As such, members of our Tribe do not view wireline service as comparable or a reasonable substitute for wireless service. Moreover, wireline services typically are more expensive and require repayment of prior account balances and a deposit, making such service unaffordable.

8. Many of our eligible residents who remain eligible for \$34.25 per month in benefits will be forced into basic Lifeline plans that only provide \$9.25 per month of value because no facilities-based wireless Lifeline provider is available. These subscribers will lose access to the level of service on which they have come to rely in order to stay connected to employers, schools, healthcare providers, emergency services and other members of our Tribal community. New subscribers will no longer have access to a service plan that comes with a free broadband-capable smartphone. No comparably priced service offerings are available to our Tribe's members in Mississippi.

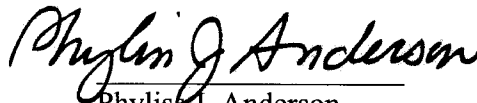
9. Without enhanced Tribal Lifeline support, we expect a large drop in connectivity and subscribership for the Tribe's poorest members. The Tribe provides a great deal of community current events (e.g., weather-related closings, emergency notifications, Tribal election information, etc.) and important information about Tribal programs, services, and activities for Tribal members through online avenues such as social media and on the Tribal

webpage. Any drop in connectivity for our Tribal members will have a negative impact on the ability of the Tribe to provide this communication to members in a timely manner. It also threatens public safety, as fewer of our residents will have a means of communicating in times of emergency.

10. Moreover, based on current expected timelines for the effective date of the Fourth Report and Order, it appears that our residents will lose service just after the start of the school year and before the holiday season, a critical time for families to stay connected to each other and to essential services. This harm caused by allowing the Tribal rule change banning participation by wireless resellers to go into effect will be severe, not solely economic, and unrecoverable.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on: June 20, 2018

  
Phyllis J. Anderson  
Tribal Chief

# EXHIBIT F

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Bridging the Digital Divide for Low-Income Consumers	)	WC Docket No. 17-287
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197
	)	

**DECLARATION OF THE LEECH LAKE BAND OF OJIBWE**

Leech Lake Band of Ojibwe  
190 Sailstar Dr. N.W.  
Cass Lake, MN 56633  
218-335-8200

June 21, 2018

**DECLARATION OF THE LEECH LAKE BAND OF OJIBWE**

I, Sarah Stahelin, hereby declare as follows:

1. I am a Tribal Attorney for the Leech Lake Band of Ojibwe ("LLBO"), a position I have held since November 2015. I am responsible for representing Leech Lake Band of Ojibwe Tribal Government's legal interests in multiple forums and advising the Band on their legal rights in multiple situations. I submit this declaration in support of a motion for stay pending judicial review of the Lifeline Fourth Report and Order filed by Crow Creek Sioux Tribe, Oceti Sakowin Tribal Utility Authority, National Lifeline Association, Assist Wireless, LLC, Boomerang Wireless, LLC, and Easy Telephone Service Company.

2. The Leech Lake Band of Ojibwe is a federally recognized Indian tribe located in north-central Minnesota and covers parts of four counties: Beltrami, Cass, Itasca, and Hubbard, with the major portion located within Cass County. The reservation is isolated from large cities, situated 100 miles south of the Canadian border, 225 miles north of Minneapolis/St. Paul, 140 miles west of Duluth, and 155 miles east of Fargo, North Dakota.

3. A 2017 economic survey and report by Oweesta found that Leech Lake consists of range of household incomes, with the majority (25.9%) reporting an income range of between \$5,000 and \$19,999; then \$20,000 to \$34,999. 11.2% of Leech Lakers reported a household income of less than \$5,000. The 2010 Census further indicates that the median household income of the entire reservation population is \$28,137, or per-capita income of \$13,103. Of this, there are 4,850 Native Americans, or 47.5% of the Reservation population, that have a median household income of \$23,306, or \$9,647 per-capita income, which is significantly lower than the mainstream populace. The median family income of one reservation community is \$6,563, where 73.7% of all families live below the poverty level.

4. The Native American unemployment rate on the Leech Lake Reservation continues to hover near 46%. Because of their low incomes coupled with the lack of job opportunity, many residents of Leech Lake cannot afford essential services, including telecommunications services, at unsubsidized rates. In addition, many residents of the reservation are unbanked or underbanked. This makes it difficult, and much more expensive, to make even modest monthly payments for recurring services.

5. The only facilities-based wireless carrier that provides mobile network coverage on the reservation is Verizon. Verizon does not offer Lifeline service on the reservation. I am not aware of any recent effort by these carriers, or any other facilities-based wireless carriers, to introduce Lifeline service on Leech Lake.

6. The only provider of wireless Lifeline service on the reservation is North American Local, which is a mobile virtual network operators ("MVNOs") that resells service provided by Verizon. Based on existing Lifeline support amounts, this carrier is able to offer wireless service to eligible low-income subscribers on the reservation free of charge.

7. If MVNOs deemed ineligible for enhanced tribal support decide to exit the Lifeline market, many low-income residents of the Leech Lake Reservation will lose telephone and broadband service with no affordable alternatives available. Unsubsidized wireless plans are prohibitively expensive for most low-income households on the reservation, as are fixed telephone and Internet access services, which are not available in all locations in any event. Indeed, although precise statistics on these matters are not maintained, my experience as an attorney working with families and individuals across the reservation since 2001 is that levels of telephone subscribership improved substantially after the introduction of wireless Lifeline service (though they remain very low by nationwide standards).

8. Likewise, if MVNOs raise rates in response to the unavailability of enhanced tribal support, their wireless plans will no longer be affordable for many existing customers. A large drop in subscribership can be expected for several reasons.

9. First, at \$25 per month, the enhanced tribal support amount is very large when compared to the basic Lifeline subsidy level of \$9.25 per month, meaning that any price increases could be substantial.

10. Second, a price increase of any kind would force unbanked tribal members make costly and inconvenient out-of-pocket payments that are not necessary under the current Lifeline rules. As explained, with existing support amounts, MVNOs typically are offering some level of Lifeline wireless service free of charge. As a result, many existing Lifeline subscribers do not need to arrange recurring payments to the carrier, which greatly facilitates sustained enrollment for the many tribal members that lack regular access to banking services. Indeed, on the 972.517 square miles of land in the Leech Lake Reservation, there are very few facilities that offer money order or cash transfer services. There are very few banks, money transfer locations (like Western Union), and U.S. post offices serving the reservation, meaning that a subscriber may have to travel very long distances to remit a monthly payment, in addition to paying any applicable service fees. The lack of reliable public or private transportation for many tribal members, heightens the burdens on individuals.

11. Currently there are 574 tribal members who have accessed Lifeline service for 6 months or longer and 1131 members who have signed up and utilized the service at one time or another. The widespread disconnection of tribal members enrolled in the Lifeline program would have a disastrous effect on these families, who are some of the most vulnerable in our society. The loss of such services would threaten the success of recent economic development

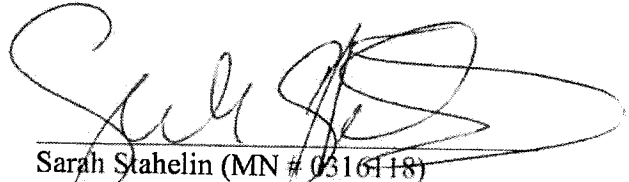
initiatives, all of which depend on access to telephone and broadband service. Tribal members who do not have access to phones and internet will not be able to call to apply for jobs on the new Casino construction project the Band has just begun. Parents would not be able to keep in touch with the schools concerning their children, which is concerning given that the truancy rates for Leech Lake children is much higher than the state and national average. Families and elders would not be able to stay in touch with their medical providers to maintain and set up appointments. Individuals would lose touch with family and friends, as well as lose their ability to connect with their Tribal Government website and information. As more and more things are posted online, cutting tribal members off from these services would have disastrous effects on their ability to actively participate in all levels of tribal and state government.

12. In addition, without a wireless voice subscription, members of Leech Lake will lose access to emergency services. Leech Lake disaster alerts are now sent out via text and internet. Amber alerts would go unheeded. People experiencing domestic violence, medical emergencies or other immediate issues would not have the ability to contact law enforcement and rescue personnel.



I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on: June 21, 2018

A handwritten signature in black ink, appearing to read 'Sarah Stahelin', with a large, stylized flourish extending from the end of the signature.

Sarah Stahelin (MN # 0316118)  
Attorney for Leech Lake Band of Ojibwe